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December 30, 2020

RE: Letter Motion to File Motion to Amend Under Seal

The Honorable Lewis J. Liman
United States District Court, Southern District of New York
500 Pearl Street, Room 701
New York, NY 10007

P. O’Gorman v. Mercer Kitchen L.L.C., et. al, No. 20-CV-01404

Judge Liman,

I represent Plaintiff P. O’Gorman in the above-captioned matter, and write to request leave to file Plaintiff’s Motion to Amend the Complaint under seal. The Motion to Amend seeks to implead additional parties on the basis of information gleaned from leases, operating agreements, and other documents produced by Defendants in this matter that have been marked confidential by Defendants. Accordingly, Plaintiff is prohibited from explaining the basis for the motion by the Protective Order in place in this matter absent the ability to file under seal. Thank you for your attention to this matter.


Very truly yours,

/s/
Joshua Alexander Bernstein

Plaintiff’s application fails to satisfy the standards under *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). Moreover, the fact that information is subject to a confidentiality agreement between litigants is not by itself a valid basis to overcome the presumption. *See id.* at 119; *United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995).

The motion to seal is DENIED without prejudice to Plaintiff filing a copy of the motion to amend with proposed redactions limited to information that is truly confidential or sensitive and satisfies *Lugosch*. *See United States v. Aref*, 533 F.3d 72, 93 (2d Cir. 2008) (stating “the requirement that district courts avoid sealing judicial documents in their entirety unless necessary”). Plaintiff may make such motion, after consulting with Defendants, by January 20, 2021. Otherwise, Plaintiff is directed to refile the motion to amend, proposed amended complaint, and supporting memorandum publicly and without redaction by that date.

SO ORDERED. 1/13/2021.


LEWIS J. LIMAN
United States District Judge